

## **REMARKS**

Claims 1-9 are pending in the application. Claims 1-4 and 8 are amended, and claims 10-17 are added. Favorable reconsideration and allowance of this application is respectfully requested in light of the amendments and the foregoing remarks.

### **1. Rejections in view of the cited references**

Claims 1-7 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,411,581 to Niewold (herein “the Niewold patent”). Claim 8 stands rejected as being anticipated by U.S. Patent No. 5,029,436 to Fredriksen (herein “the Fredriksen patent”). Claim 9 stands rejected as being unpatentable over the Fredriksen et al. patent in view of the Niewold patent. Applicant respectfully traverses these rejections for the foregoing reasons.

Claim 1 as amended recites a system for unloading grain from a grain tank of an agricultural combine that comprises an unloading conduit assembly for unloading grain from the combine into a grain truck or the like displaced horizontally from the grain tank. The unloading conduit assembly includes a vertical conduit and a horizontal conduit mounted on top of the vertical conduit, the horizontal conduit having an extent greater than an extent of said vertical conduit. The vertical conduit is mounted on the combine for rotational movement of at least a portion of the vertical conduit about its vertical axis. The vertical conduit also is mounted on the combine for sideways pivoting of at least a portion of the vertical conduit about a horizontal pivot axis to permit retracting the horizontal conduit into a storage position on one side of the tank.

The unloading conduit assembly is configured to unload grain through the horizontal conduit to the grain truck located anywhere along an entire radial circumference of the unloading assembly relative to the vertical axis of the vertical conduit.

*The Niewold patent does not disclose an unloading conduit assembly configured to unload grain through the horizontal conduit to the grain truck located anywhere along an entire radial circumference of the unloading assembly relative to the vertical axis of the vertical conduit.* It is apparent that the alleged horizontal conduit 72 disclosed in the Niewold patent is incapable of unloading grain to a grain truck located forward of the hopper truck. Rather, the hoppers 12 and 14 of the auger-hopper construction 10 prevent the alleged conduit 68 from unloading grain to a truck located in front of the conduit 68 (See Fig. 1). Thus, the Niewold patent does not disclose each and every claimed limitation recited in claim 1. The other cited references fail to correct these deficiencies. Accordingly, reconsideration and allowance of claim 1 is respectfully requested.

Claims 2-3 depend either directly or indirectly from claim 1 and are believed allowable for the same reasons that claim 1 is believed allowable, and also include patentable subject matter in addition to that recited in claim 1. Specifically, none of the cited references disclose or suggest a vertical conduit having a length extending from at least a top of the grain tank and mounted on the combine for rotation of the entire vertical conduit about the vertical axis of the vertical conduit. Rather, the Niewold

patent only discloses that the outer elbow 72 is only able to rotate about the alleged vertical axis (col. 5, lines 55-61).

Claim 4 recites a system for unloading harvested product from an agricultural combine that comprises, *inter alia*, an unloading conduit assembly for unloading product into a truck or the like located on any radius horizontally around the combine. The unloading conduit assembly includes a vertical conduit extending upwardly out of the top of the grain tank and a horizontal conduit extending radially from the vertical conduit, the horizontal conduit having an extent greater than an extent of the vertical conduit. The vertical conduit is mounted in the tank for sideways pivoting of at least a portion of the vertical conduit about a horizontal pivot axis to permit retracting said horizontal conduit into a storage position rested on top of the grain tank of the combine.

***The Niewold patent does not disclose a vertical conduit extending upwardly out of the top of a storage tank, and mounted in the grain tank.*** Rather, the Niewold patent discloses an alleged vertical conduit 68 extending from a horizontal conduit 16 extending rearward from a side of hopper 14 leading from a tailgate 32 (See Fig. 1). Thus, the Niewold patent does not disclose each and every claimed limitation recited in claim 4. Accordingly, allowance of claim 4 is respectfully requested. ***Moreover, the Niewold patent does not teach or suggest the alleged horizontal conduit in the storage position rests on top the alleged grain tank.*** The other cited references fails to correct these deficiencies. Thus, the cited references do not teach each and every limitation of

the claimed invention. Accordingly, reconsideration and allowance of claim 4 is respectfully requested.

Claims 5-7 depend either directly or indirectly from claim 4 and are believed allowable for the same reasons that claim 4 is believed allowable, and also include patentable subject matter in addition to that recited in claim 4.

Claim 8 as amended recites an agricultural combine that includes, *inter alia*, an unloading conduit assembly including an unloading conduit configured to receive grain from said loop conveyor and convey the grain to a truck or the like located at any radial position around a perimeter of the combine relative to a vertical axis of the vertical conduit, and the unloading conduit including a horizontal conduit which is retractable into an inoperative, stored position rested on a left or right side of the grain tank relative to a forward direction of travel of the combine.

For reasons similar to those described above for claim 1, the cited references fail to disclose or suggest an unloading conduit assembly including, *inter alia*, an unloading conduit configured to receive grain from said loop conveyor and ***convey the grain to a truck or the like located at any radial position around a perimeter of the combine relative to a vertical axis of the vertical conduit, and the unloading conduit including a horizontal conduit which is retractable into an unoperative, stored position rested on a left or right side of the grain tank relative to a forward direction of travel of the combine.*** It is apparent from Fig. 2 that the alleged conduit 34 disclosed in the Fredricksen patent is incapable of conveying grain from the combine to a truck located

at any radial position around a perimeter of the combine (e.g., forward of the combine). Rather, the alleged horizontal conduit 34 is only capable of reaching a truck located positioned alongside the combine. Accordingly, reconsideration and allowance of claim 8 is respectfully requested.

Claim 9 depends directly from claim 8 and is believed allowable for the same reasons that claim 8 is believed allowable, and may also include patentable subject matter in addition to that recited in claim 8. For example, for reasons similar to those described above for claims 1 and 4, the Niewold patent and the Fredricksen patent do not disclose *an unloading conduit having a vertical conduit extending upwardly out of the top of a storage tank*. The other cited references fail to correct this deficiency.

## **2. New Claims**

New claims 10-14 depend either directly or indirectly from claim 1 and are believed allowable for the same reasons that claim 1 is believed allowed. Also, claims 10-14 are believed to recite patentable subject matter in addition to that recited in claim 1. For example, none of the cited references disclose or suggest the alleged horizontal conduit having an auger located therein as recited in claim 10. In another example, none of the cited references disclose or suggest an unloading conduit including a horizontal conduit which is retractable into an inoperative, stored position rested on a shelf located on a left or right side of the grain tank of said combine relative to a direction of travel of the combine, as recited in claim 12.

New claims 15-17 depend either directly or indirectly from claim 4 and are believed allowable for the same reasons that claim 4 is believed allowed. Also, claims 15-17 are believed to recite patentable subject matter in addition to that recited in claim 4. For example, none of the cited references disclose or suggest the horizontal conduit in the storage position rests on a shelf formed into a left or right side of the grain tank of the combine relative to a forward direction of travel of the combine, as recited in claim 15. In another example, the cited references do not disclose or suggest an auger located in the horizontal conduit, as recited in claim 17.

#### **CONCLUSION**

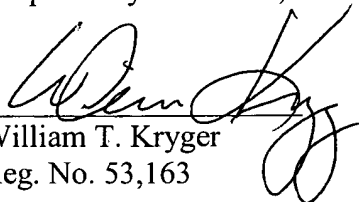
It is submitted that claims 1-17 define patentable subject matter. A Notice of Allowance is therefore respectfully requested.

A fee of \$120.00 is believed due with this communication for a one-month extension. Nevertheless, should the Examiner consider any fees to be payable in conjunction with this or any future communication, authorization is given to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170.

Appl. Serial No. 10/620,117 to Robert A. Matousek  
Art Unit 3652  
Amendment after July 28, 2005 Final Office Action  
Page 12

The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

Respectfully submitted,

  
William T. Kryger  
Reg. No. 53,163

Dated: November 17, 2005

BOYLE, FREDRICKSON, NEWHOLM,  
STEIN & GRATZ S.C.  
250 Plaza, Suite 1030  
250 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: (414) 225-6306  
Facsimile: (414) 225-9753